

**Remarks**

By the foregoing Amendment, claim 1 is amended. No new matter is added by this Amendment. Entry of the Amendment, and favorable consideration thereof, is earnestly requested.

The Examiner has issued a new rejection of independent claims 1, 11 and 12 under 35 U.S.C. §102(b) as anticipated by Kawai, U.S. Patent No. 4,911,614. Applicant has amended independent claim 1 to clarify the structural arrangement recited therein. Applicant respectfully requests reconsideration of the current rejection of claims 1, 11, and 12 in view of the foregoing amendment and the below remarks.

**Independent Claim 1**

Applicant submits that Kawai does not anticipate independent claim 1, as amended, as Kawai, at the very least, does not disclose first and second adjacent plates with corresponding flaps and apertures. Instead, Kawai discloses a number of plates/sheets disposed between the “first” and “second” plates identified in the Office Action as having the relevant flaps/apertures.

However, the Examiner has previously asserted (with respect to a different claim) that “the term adjacent does not prevent an element or object from existing between two elements considered adjacent” (see 10/30/06 O.A. at 7), and thus, it is apparently the Examiner’s position that the term “adjacent” does not necessarily imply abutting. Accordingly, Applicant has amended claim 1 to specifically recite that the first and second plate, which has the flaps/apertures corresponding to apertures/flaps in the first plate, is “mounted adjacent to and abutting said first plate”.

This arrangement constitutes a significant difference from the designs existing in the prior art. The present invention creates the inlet/outlet valves by dispensing with any standard plates that provide flow passages therethrough (and the concomitant adjacent support and/or stopper plates employed by various prior art designs), and instead sandwiching two corresponding valve plates between the pump mechanism and the cover, placing one plate right on top of the other, which have corresponding, aligned flexing flaps and apertures. As a result, an extremely simple, inexpensive, space-saving, easy-to-assemble arrangement is created for providing the necessary inlet and outlet valves of the compressor.

Kawai discloses no such structure. As illustrated in Figures 2-3 and explained at Col.4, Ins. 13-60, Kawai discloses a main valve plate 10F with suction and discharge ports 11F, 12F, a rubber, shock absorbing sheet 21F, and a metal, protective valve sheet 20, all disposed between the identified first and second plates 53F, 54F (identified in the Office Action by their reed valve numbers 13, 14). Accordingly, Kawai does not

teach or suggest an arrangement employing first and second abutting plates with corresponding flaps/apertures as claimed in independent claim 1.

Applicant also notes that the invention recited in independent claim 1 would also not be obvious over Kawai because, not only is there no suggestion to make such a modification, but Kawai explicitly teaches away from doing so. *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983) (prior art reference must be considered in its entirety, including those portions that would lead away from the claimed invention). In particular, it is a fundamental aspect of the Kawai design to use a main valve plate 10F and employ additional plates 20F, 21F to accommodate the shock caused by the reed valve striking that plate. See Abstract; Col.4, Ins. 52-60.

Similarly, Kawai teaches to use the elastic and protective sheets 21F, 20F because it is a specific object of the Kawai design to reduce the noise caused by reed valves hitting the main valve plate 10F, and thus, making the necessary modifications in order to arrive at the presently claimed invention would improperly render the Kawai device unsatisfactory for its intended purpose. MPEP 2143.01; *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

### **Independent Claims 11 and 12**

Applicant submits that Kawai does not anticipate independent claims 11 and 12 because it does not disclose each and every element recited in those claims.

Specifically, Kawai does not disclose the fluid pathways recited in claims 11 and 12.

As explained above, Kawai does not disclose first and second abutting plates with corresponding flaps and apertures. Claims 11 and 12, however, recite:

*a first fluid pathway defined when the at least one flexing flap of said second plate is disposed against the at least one aperture of said first plate and the at least one flexing flap of said first plate is biased away from the at least one aperture of said second plate, in which fluid flows through said inlet port, through the at least one aperture in said second plate, past the at least one flexing flap in the first plate, and into said housing; and*

*a second fluid pathway defined when the at least one flexing flap of said first plate is disposed against the at least one aperture of said second plate and the at least one flexing flap of said second plate is biased away from the at least one aperture of said first plate, in which fluid flows from the piston channel, through the at least one aperture in said first plate, past the at least one flexing flap in the second plate, and out said outlet port.*

In Kawai, on the other hand, the flaps of one plate are never disposed against the apertures of the other plate, because the relevant plates are remote from each other. Accordingly, Kawai discloses no such assembly. Additionally, Applicant further notes that the invention recited in claims 11 and 12 would not be obvious over the Kawai design, as one skilled in the art would not modify the Kawai device as necessary in order to arrive at the present invention for the reasons explained above.

For the reasons set forth above, it is respectfully submitted that claims 1-17, all of the claims remaining in the application, are in order for allowance, and early notice to that effect is respectfully requested.

Respectfully submitted,

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